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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,876	03/20/2004	Stephen B. Austin	1412-001	7663

4678 7590 09/28/2006

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EXAMINER

ALIMENTI, SUSAN C

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/804,876	<b>Applicant(s)</b> AUSTIN, STEPHEN B.	
	<b>Examiner</b> Susan C. Alimenti	<b>Art Unit</b> 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 23-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 23-27, 30, and 31 are rejected under 35 U.S.C. 102(a) as being anticipated by Steffler et al. (US PG PUB 2003/0139130 A1)

Steffler et al (Steffler) discloses a system for processing animal carcasses comprising a series of animal unit holders (shackles 22) that travel along a processing path (Figure 1) while holding an animal unit (carcass 33). A series of sensors are disposed along the processing path, comprising a first set 52, 54, 56 for sensing presence of the animal unit 33 ([0041]-[0043]) and a second set 62, 64, 66, 68, 70 & 72 for tracking the location of the animal unit holder 22 with respect to the associated carcass 33 ([0047]-[0050]). The sensors are connected to a control system (programmable logic controller, PLC) and upon detecting the absence or presence of the animal unit 33 on holder 22, sensors 52, 54 & 56 send signals indicating such to the PLC for controlling the functions of the system ([0042]). More specifically, once the PLC receives a signal that the holder 22 is empty it will deactivate the cutter causing it not to harvest the animal parts ([0043]). It is inherent that upon sensing the presence of an animal unit 33 the cutter will act to harvest the animal parts, since this is the inventive purpose of Steffler's system. Regarding the limitation of counting "a predetermined number of animal unit holders," that predetermined number is considered to be 1.

Regarding claims 30 & 31, the PLC control system deactivates the cutter as discussed above based on as many holders 22 that are determined to not be holding an animal unit 33, which may be a series of holders 22

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 28 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steffler as applied above.

Steffler discloses the claimed invention, except it is not positively what type of sensors are preferable. It would have been an obvious design choice to utilize a sensor of the type of infrared sensors, proximity sensors, proximity switches, metal detection sensors, ultrasonic sensors, and combinations thereof in order to perform the disclosed sensing step since the examiner takes Official Notice that such sensors are known in the art for the particular purpose and it appears Steffler's system would work equally well with any of the above sensors.

5. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Steffler as applied to claim 23 above, and further in view of Ewing (US 4,882,811).

Steffler discloses the claimed invention except it is not positively stated that the sensing of the animal units controls a water supply, e.g. for a cleaning or treating process. Ewing

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discloses an animal processing system, in the same field of invention, that utilizes a processing step for cleaning the animal unit (catfish 10) that provides in a controlled manner in order to conserve water. The device determines the presence of said unit 10 via sensor 70, and controller 92 times the duration of a spray of water on the unit 10 (Ewing, col.7, lns.40-57). It would have been obvious to one having ordinary skill in the art to utilize a cleaning step in Steffler's system to hinder bacteria growth and to control the duration of the water supply in order to conserve water.

### *Response to Arguments*

6. Applicant's arguments with respect to previous claims 1-22 have been considered but are moot in view of the new grounds of rejection over new claims 23-32.

### *Conclusion*

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan C. Alimenti whose telephone number is 571-272-6897.

The examiner can normally be reached on Monday-Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Susan C. Alimenti



TERI PHAM LUU  
SUPERVISORY  
PRIMARY EXAMINER